

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UPS FREIGHT, f/k/a OVERNIGHT
TRANSPORTATION COMPANY,

Plaintiff,

v.

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH AND
C.C. EASTERN, INC.,

Defendants.

Civil Action No. 06-137 Erie

MEMORANDUM ORDER

This action was received by the Clerk of Court on June 19, 2006, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

After de novo review of the documents in the case, together with the Report and Recommendation [ECF No. 89] and objections thereto [ECF No. 90], the following order is entered:

AND NOW, this 16th day of February, 2012;

IT IS HEREBY ORDERED that the Report and Recommendation [ECF No. 89] is adopted as the opinion of the Court. IT IS THEREFORE ORDERED that Plaintiff's motion for entry of judgment [ECF No. 77] is GRANTED to the extent Plaintiff seeks to recover reimbursement of attorneys' fees and costs it has incurred, and will continue to incur, in defense of the Underlying Action; accordingly, JUDGEMENT is hereby entered in favor of Plaintiff, UPS Freight, f/k/a Overnight Transportation Company, and against Defendant, National Union Fire Insurance Company of Pittsburgh, in the principal amount of \$180,206.31, plus prejudgment interest at the rate of six percent (6%) per annum, for reimbursement of Plaintiff's attorneys' fees and costs in defense of the Underlying Action through June 30, 2011.

IT IS FURTHER ORDERED that Defendant National Union Fire Insurance Company of Pittsburgh remains obligated to pay all attorneys' fees and costs Plaintiff has and will incur in its continued defense of the Underlying Action since June 30, 2011.

IT IS FURTHER ORDERED that Plaintiff's motion is DENIED to the extent Plaintiff seeks recovery of attorneys' fees and costs it has incurred in the instant declaratory judgment action.

The clerk is directed to mark the case closed.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge